

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CITY OF STERLING HEIGHTS, ET AL.,

Case No. 03-72773

Plaintiffs,

Honorable Nancy G. Edmunds

v.

UNITED NATIONAL INSURANCE
COMPANY, ET AL.,

Defendants.

/

**ORDER DENYING DEFENDANT UNITED NATIONAL INSURANCE COMPANY'S
MOTIONS [390, 391] TO AMEND THE COURT'S JANUARY 27, 2006 AND
JANUARY 19, 2007 ORDERS TO CERTIFY ISSUES FOR IMMEDIATE APPEAL
UNDER 28 U.S.C. § 1292(b)**

This matter comes before the Court on Defendant United National Insurance Company ("United National")'s motions to amend this Court's January 19, 2007 order regarding allocation [354] and its January 27, 2006 order denying United National's motion for summary judgment on Plaintiffs' breach of implied covenant of good faith and fair dealing claims [309] so as to certify issues for immediate appeal under 28 U.S.C. § 1292(b). This Court's certification is a necessary first step for United National's appeal of these otherwise nonappealable interlocutory orders. United National's motions are DENIED.

28 U.S.C. § 1292(b) provides that certification for appeal is appropriate if the Court is of the opinion that its interlocutory order "involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the

order may materially advance the ultimate termination of the litigation.” As the Sixth Circuit recently observed, “[r]eview under § 1292(b) is granted sparingly and only in exceptional cases.” *In re City of Memphis*, 293 F.3d 345, 350 (6th Cir. 2002).

This is not the exceptional case where such review should be granted. United National has not satisfied the required criteria set out in 28 U.S.C. § 1292 for either of the Orders at issue here [Docket Nos. 309, 354]. The Court is not convinced that there is substantial ground for difference of opinion on the issues United National seeks an immediate appeal. Likewise, the Court is not convinced that an immediate appeal from these orders will materially advance the ultimate termination of this litigation. Rather, an interlocutory appeal will unnecessarily delay the March 20, 2007 trial date set for this 2003 case.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: February 16, 2007

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 16, 2007, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager